

REMARKS

Introductory Comments:

Claims 1-6, 8 and 10-12 were examined in the Office Action under reply and stand rejected under 35 U.S.C. §112, second paragraph (claim 12) and under the judicially created doctrine of obviousness-type double patenting (claims 1, 5, 6, 8, 10 and 11). These rejections are respectfully traversed as discussed more fully below. Applicant notes that claims 2-4 were not subject to any rejections and assume these claims are therefore allowable.

Formal Matters:

The Examiner requested new corrected drawings. Accordingly, substitute formal drawings are being provided with this response.

The Examiner also requested applicant provide the status of USSN 08/227,319, referred to at page 1, lines 15 and 20 of the application. USSN 08/227,319 was abandoned in favor of USSN 08/467,044, a CIP of the '319 application. The '044 application has now issued as U.S. Patent No. 6,180,613. Applicant has amended the specification to refer to the issued patent. Thus, this basis for objection has been overcome.

Claim 8 was objected to as grammatically incorrect. Applicant has amended the claim as suggested by the Examiner. Hence, this basis for objection has also been overcome.

Finally, applicant has amended claim 4 to correct an obvious typographical error.

Rejection Under 35 U.S.C. §112, Second Paragraph:

Claim 12 was rejected as indefinite under 35 U.S.C. §112, second paragraph. The Examiner suggested applicant substitute the phrase "the promoter" for the phrase "a promoter." Applicants have so done. Accordingly, this basis for rejection has been overcome and withdrawal thereof is respectfully requested.

The Double Patenting Rejection:

Claims 1, 5, 6, 8, 10 and 11 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, 7, 10, 16, 17, 18, 31 and 36 of U.S. Patent No. 6,503,887. Applicant requests this rejection be held in abeyance until allowable subject matter is indicated. Applicant will then consider the propriety of filing a Terminal Disclaimer.


CONCLUSION

Applicant respectfully submits that the claims define a patentable invention. Accordingly, a Notice of Allowance is believed in order and an early notification to that effect would be appreciated.

If the Examiner notes any further matters which he believes may be resolved by a telephone interview, he is encouraged to contact the undersigned by telephone at 650-493-3400.

Respectfully submitted,

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